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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,003	12/03/2003	Trevor P. Ashline	118E-0142CIP	7183
37953	7590	12/14/2004	EXAMINER	
MILLER, EVERMAN & BERNARD, PLLC 4701 HEDGEMORE DR., SUITE 2500 CHARLOTTE, NC 28209			LINDSEY, RODNEY M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/728,003	ASHLINE, TREVOR P.	
	Examiner	Art Unit	
	Rodney M. Lindsey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on line 4 of paragraph [0056], "24" it appears should be --22--, in paragraph [0079] "24" it appears should be --14-- and "14" it appears should be --20--, in paragraph [0082] on line 3 "14" it appears should be --20-- and on line 6 of paragraph [0089] "beings" it appears should be --begins--.

Appropriate correction is required.

Claim Objections

2. Claim 20 is objected to because of the following informalities: on line 5 of claim 20 the language of "the anchor a seat belt" is awkward and confusing. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11, 13 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. With respect to claim 1 note member 26, tether 88 and strap 46. Inherently the restraint device would function to control the driver's head during a collision as a result of being anchor with the driver to the seat while limiting motion of the head and spine. With respect to claim 2 note the member 26 positioned adjacent the back of a user. With respect to claim 3 note the rigid member 26 (see column 7, line 68). With respect to claim 4 note Figure 5 and such

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length of the member 26. With respect to claim 5 the device at 24 is equivalent to a first section and at 26 is equivalent to the second section. With respect to claims 6-8 note the device attached to encircle the torso of the driver's body (see Figure 5). With respect to claim 9 note the strap 46 attached to harness 12 attached at 18 to the driver's legs. With respect to claim 11 the harness 12 attached to the seat and to the strap 46 is equivalent to a seat belt assembly. With respect to claim 13 note the encircling of the torso by the strap 46 as in Figure 5. With respect to claim 15 note the provided member 26, the provided tether 88 attached to member 26 and to the helmet, the provided strap 46 attached to the member 26 and to the anchor or body of the user. With respect to claim 16 note Figure 5 and the member positioned along the back of the user. With respect to claim 17 note the torso as shown in Figure 5. With respect to claim 18 inherently the force of a collision would cause the strap 46 to be placed in tension as it is secured to the harness 12 secured to the seat. With respect to claim 19 inherently the force of a collision causing the body to move away from the seat and the restraint device or insert would tension the tether 88. With respect to claim 20 note the member 26 with the tether 88 and strap 46 positioned along a user's back (see Figure 5) and attached to a helmet by the tether 88 and attached to the user's body as an anchor.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. in view of Williams, Jr. Adams et al. do not teach securing the member by a strap positioned between or encircling the user's legs or positioned near the user's waist. Williams, Jr. teaches old to use straps positioned between and encircling the legs of a user and near the waist of a user to secure a member 10 along the back of the user (see Figure 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device of Adams et al. with the straps of Williams, Jr. to achieve the advantage of enhancing the engagement between the member and the user's body.

Conclusion

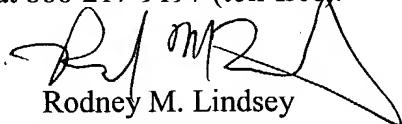
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the straps of Benitez, Jr., et al., Anders et al. and British patent to Fisher and the helmet restraints of Landau, Hubbard, Cooper et al., Moloney, World patent to Polson, Alsup and Boyce et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml